

**MINUTES OF THE
JOINT CAPITAL FACILITIES & GOVERNMENT OPERATIONS
APPROPRIATIONS SUBCOMMITTEE MEETING
WEDNESDAY, JANUARY 30, 2008, 2:00 P.M.
RoomW025, West Office Building, State Capitol Complex**

Members Present: Sen. Scott K. Jenkins, Committee Co-Chair
 Rep. Kevin Garn, Committee Co-Chair
 Sen. Mike Dmitrich
 Sen. Darin Peterson
 Rep. DeMar “Bud” Bowman
 Rep. Rebecca Chavez-Houck
 Rep. Stephen Clark
 Rep. Janice M. Fisher
 Rep. Fred R. Hunsaker
 Rep. Gordon Snow
 Rep. Mark Walker
 Rep. Bradley A. Winn

Members Absent: Sen. Sheldon Killpack

Staff Present: Steve Allred, Fiscal Analyst
 Richard Amon, Fiscal Analyst
 Bonnie Brinton, Committee Secretary

Public Speakers Present: Carl Empey, Financial Advisor, Zions Bank
 D. Gregg Buxton, Director, DFCM
 Kent Beers, Assistant Director, DFCM
 Alyn Lunceford, Courts Administrative Services
 John Nichols, Real Estate Manager, DFCM
 Mark Spencer, Associate Commissioner, Board of Regents
 Ken Nye, Director of Business Services, University of Utah
 William A. Sederburg, President, Utah Valley University
 Val Peterson, Vice President, Utah Valley University

A list of visitors and a copy of handouts are filed with the Subcommittee minutes.

Co-Chair Jenkins called the meeting to order at 2:15 p.m.

1. Welcome

Co-Chair Jenkins welcomed everyone to the meeting.

2. Approve Minutes of January 28, 2008

MOTION: Rep. Bowman moved to approve the minutes of the meeting held January 28, 2008.

The motion passed unanimously with Sen. Dmitrich and Reps. S. Clark, Snow and Walker absent for the vote.

3. Debt Service - Fiscal Analyst Richard Amon

The Analyst discussed a schedule showing outstanding General Obligation (G.O.) bonds. The total G.O. debt outstanding as of January 4, 2008, is \$1,203,915,500. This schedule did not include bonds authorized by the Legislature but not yet issued, such as \$1.06 billion for highways, \$26.3 million for Salt Lake County highways, \$110 million for USTAR, \$4.6 million for a veterans' nursing home, and other miscellaneous projects.

Under the current schedule, Mr. Amon explained, Utah will pay off one bond on July 1, 2008, and another on July 1, 2009. Any bond can be legally defeased earlier than its final maturity date. He referred to an Issue Brief - Debt Defeasance which explained that defeasance refers to the method of rendering outstanding bonds null and void. While in the strict sense, defeasance also refers to bond refunding, typically defeasance refers to using cash to set up an escrow account which will pay off the entire principal and interest on the bonds.

Regarding which bonds should be paid off first, the Analyst stated that of the two types of debt instruments the State currently uses, General Obligation Bonds are the more likely candidates for defeasance.

Carl Empey, Financial Advisor, State of Utah, responded to questions from Subcommittee members regarding bonding for the State.

Mr. Amon discussed State fund appropriations to Debt Service. He stated that General Fund and Education Funds are typically used to pay the debt service on the building portions of the G.O. bonds. Centennial Highway Funds (CHF) are used to pay the debt service on the highway portions of the bonds. Further, the FY 2009 base budget for debt service remained the same as FY 2008; however, the actual requirements for buildings decreased slightly to \$62.0 million and the requirements for highways increased to \$154.7 million. This results in a base appropriation of \$6.6 million too much General Fund and of \$19.7 million too little CHF, which creates a \$13.1 million deficit position. To rectify these deficit positions, the Analyst recommends that \$3,650,000 be appropriated from the CHF in FY 2008 and \$13,000,000 be

appropriated from the CHF in FY 2009.

The Analyst stated that regarding non-lapsing balance, the Debt Service line item finished FY 2007 with a \$23.5 million non-lapsing balance. The chart at right shows the seven year history of the non-lapsing balance. Legislative Leadership is currently examining the balances of the non-lapsing funds in the State and will make recommendations concerning the reallocation of these funds.

Utah's "Triple A" rating was noted by the Analyst who stated that its track record of showing a willingness to manage its debt seems to be as important as its ability to pay its debt.

Mr. Amon explained to Subcommittee members that in FY 2008 the State will pay off \$150.7 million of G.O. bonds and will pay \$60.7 million in G.O. interest/fees. In FY 2009 the State will pay off \$167.7 million of G.O. bonds and will pay \$49 million in G.O. interest/fees.

MOTION: Sen. Peterson moved to approve the Analyst's recommendation for Debt Service as follows:

1. A total FY 2009 base appropriation of \$246,705,300.
2. A onetime FY 2008 appropriation of \$3,650,000 from the Centennial Highway Fund to pay the increased debt service on highways bonds.
3. An ongoing FY 2009 appropriation of \$13,000,000 from the Centennial Highway Fund to pay the increased debt service on highways bonds.

The motion passed unanimously with Sen. Dmitrich and Reps. Bowman and Snow absent for the vote.

4. Land Banking - Fiscal Analyst Steve Allred

Mr. Allred summarized this issue by stating that Utah's growing population places increased demand for services from many sectors of State government. In some instances those services are directly connected to a need for land, such as highways, higher education campuses and general government office buildings. Further, when the State waits to acquire land until adjacent areas are developed, it may face high prices and unavailability of land in desirable locations.

The Analyst stated that a listing of vacant land currently owned by general government and

higher education has been requested by Subcommittee members. He has provided this information to inform a debate on whether the State needs to implement a land banking program. He explained that Land Banking is the process of buying and holding land for future sale or development. The aim of a State land banking program would be to buy and hold land for future State use so as to avoid paying high prices that occur in rapidly developing communities, while ensuring land will be available for government services.

Mr. Allred provided maps and descriptions of seven parcels of vacant land owned by the State which are general government parcels and nine parcels of vacant land that pertain to higher education. He discussed the boundaries and responded to questions from Subcommittee members.

D. Gregg Buxton, Director, DFCM, responded to questions from Subcommittee members.

Allen Lunceford, Courts Administrative Services, responded to Subcommittee members speaking as the former Real Estate Manager of DFCM.

Rep. S. Clark expressed his opinion that the Subcommittee has the need to review and take action on resolving the land banking issue.

John Nichols, current Real Estate Manager, DFCM, clarified information regarding a ten-acre apple orchard by the State Hospital in Provo.

Mark Spencer, Associate Commissioner, Board of Regents, responded to questions from Subcommittee members.

Ken Nye, Director of Business Services, University of Utah, explained where the new site for the Museum of Natural History would be.

Co-Chair Garn suggested that the Building Board identify and prioritize available parcels of land and that \$5 million of the \$30 million ongoing funding within the Capital Development line item be allotted for land banking.

Rep. Fisher stated that she felt there is a need for more higher education facilities on the West side of Salt Lake City near Magna and the Daybreak areas.

Rep. Winn expressed appreciation to the Analyst for the information presented and for bringing the land banking issue before the Subcommittee for discussion. He stated that he felt the Legislature should be more active in finding a solution to this issue instead of being reactive.

He stated his support for Co-Chair Garn's suggestion.

MOTION: Co-Chair Garn moved to direct the Analyst to create a proposal to present to the Executive Appropriations Committee addressing the need to set up an Agency to locate and prioritize vacant parcels of land and establish Land Banking for the State. Included in this proposal would be moving \$5 million from the \$30 million ongoing Capital Development base budget to a Land Banking line item.

Director Buxton and Assistant Director Kent Beers, DFCM, both explained that the Division has the ability to prioritize vacant parcels of land, but it does not have the authority within statute to buy land. Mr. Beers stated that he is working with the Governor's Office of Planning and Economic Development to create a master plan regarding the Draper prison and receive authority from this Subcommittee to protect this property.

Co-Chair Garn stated that he will discuss this issue with House leadership and that Co-Chair Jenkins will also discuss this issue with Senate leadership to obtain approval for a solution to the Land Banking issue. He also suggested giving directions to the Building Board to provide master planning and prioritization of vacant parcels for Land Banking to the Subcommittee.

The motion passed unanimously with Rep. Bowman absent for the vote.

Co-Chair Jenkins expressed his concern regarding the issue of higher education sprawl with the satellite campuses around the State. He questioned whether or not there should be more consolidation.

Associate Director Mark Spencer stated that the Board of Regents would be willing to work with DFCM and the Building Board to prioritize a list for Land Banking and present it to the Subcommittee.

William A. Sederburg, President, Utah Valley University, presented information regarding Land Banking. He noted the projected growth of the University, the need for additional buildings, and the traffic issues the University has. He briefly discussed the campus land planning and stated that there is no process for discussing future land needs and purchases. He explained the need for \$9 million for light rail and \$3.35 million for 5.19 acres for the Nielson property located at 4th West contiguous to the Campus. He also stated the need for either mass transit or satellite campuses.

Val Peterson, Vice President, Utah Valley University, responded to questions from Subcommittee members.

5. Capital Improvements - Fiscal Analyst Steve Allred

Mr. Allred summarized the Capital Improvements Budget Brief. He stated that Capital Improvements--formerly known as "alteration, repair and improvements" (AR&I)--are usually improvement projects costing less than \$2.5 million on the State's existing fixed capital assets. They can also be new construction projects costing less than \$500,000. Capital improvement funds may not be used for program equipment or routine maintenance.

The Analyst stated that the statutorily required amount of funding for FY 2009 is \$82,838,200. The Executive Appropriations Committee has already recognized the FY 2009 amount as a mandate and authorized it to be placed in the FY 2009 Base Appropriations Bill. The Analyst recommends the funding increase be split evenly between the General Fund and the Education Fund. Currently the General Fund covers 54 percent of the appropriation even though education facilities expend more than 50 percent.

Mr. Allred explained that DFCM's Facility Condition Assessment Program has identified \$250 million in "immediate" repair needs to buildings and infrastructure, and more than \$1.3 billion in needs over the next ten years. He stated that he believes the numbers presented in the maintenance backlog are overstated. DFCM is in the process of issuing a new contract with new deliverables that will require evaluators to better categorize maintenance needs.

The Analyst recommends a total FY 2009 Capital Improvement budget of \$82,838,200. This includes the FY 2008 base budget of \$73,059,900 plus an additional \$9,778,300. The additional funds are already allocated in the FY 2009 Base Budget Bill. Mr. Allred recommends the Legislature adopt a total appropriation of \$82,838,200 for the Capital Improvements Line Item in FY 2009.

Next, the Analyst discussed the Capital Improvement Funding Issue Brief. He stated that during the last four years the capital improvement funding requirement has increased by approximately \$10 million per year, reaching almost \$83 million in FY 2009 and becoming a significant item in the State budget. The Legislature has granted broad powers to the Building Board to oversee how funds are spent, with the mandate to consider independent professional evaluations of needs. As the appropriation continues to grow each year, he recommends the Legislature consider whether it should tighten its delegation of the funds.

Mr. Allred explained that Statute requires capital improvements to be funded at a level equal to 1.1 percent of the replacement value of existing State buildings prior to any new capital development project being approved.

The Analyst listed the requirements placed on the Building Board regarding the determination of how capital improvement appropriations are spent. He stated that Utah's approach is nationally recognized and innovative because it allows for annual growth in improvement funding and leaves the decisions to professional building managers. Mr. Allred noted that in spite of the rapid growth in funding for capital improvements, growth has not occurred as quickly as overall growth in capital development funding.

Mr. Allred referred to a chart showing that ongoing funding for capital developments has remained flat at \$30,000,000 since FY 2007, down from \$37,698,000 in FY 2006. In contrast, ongoing funding for capital improvements has increased rapidly in the same time frame, to the point where capital improvement funding is now almost three times as large as the ongoing funding for capital developments.

The Analyst recommends the Legislature consider ways to improve oversight of capital improvement projects without amending the statutory formula or creating the political problem of requiring legislative approval of each project. Some alternatives include amending statute to:

1. Specifically state that a project exceeding the \$2.5 million cap cannot be broken into smaller pieces that each fit under the cap. A project that exceeds \$2.5 million should be a capital development.
2. State that a project exceeding the \$2.5 million cannot be phase funded over the course of multiple years so each phase can fit under the cap.
3. Create a tier of project types that cost between \$2.5 million and approximately \$7 million for projects that exceed the current capital improvement cap but can't realistically compete with projects on the capital development list. Further, to allow capital improvement dollars to be spent on these projects with specific legislative approval.

MOTION: Co-Chair Garn moved to draft intent language for FY 2008 and draft legislation for next year to resolve the issue of oversight of capital improvement projects.

Director D. Gregg Buxton, and Assistant Director Kent Beers, presented an example of water, sewer, steam, electrical and gas utility distribution system on a university campus and explained the issues of phase funding. They also provided information regarding phase funded capital improvement projects for FY 2004 through FY 2008.

Rep. Snow stated that this information was helpful in determining the need for oversight in

these issues.

Rep. Hunsaker stated that an issue that is difficult to identify is how to define a "project."

Co-Chair Garn withdrew the motion to allow time for Subcommittee members to study and consider the issue

Rep. S. Clark stated that the Subcommittee should work with the Building Board to allow DFCM more authority to resolve the problems created in funding capital improvement projects. There was additional discussion about Subcommittee members talking to Leadership and Leadership talking to the Division regarding a solution to this issue. Director Buxton agreed to exchange ideas with Leadership.

MOTION: Rep. Winn moved to adjourn the meeting.

The meeting was adjourned at 4:10 p.m. by Co-Chair Jenkins.

The minutes were reported by Bonnie Brinton.

Sen. Scott K. Jenkins
Committee Co-Chair

Rep. Kevin Garn
Committee Co-Chair